

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

JAMES DULAK,

Plaintiff,

Case No. 14-10193
Honorable Denise Page Hood

v.

CORIZON, INC., et al.

Defendants.

/

**ORDER ACCEPTING AND ADOPTING THE JULY 2, 2015
REPORT AND RECOMMENDATION**
and
**ORDER ACCEPTING AND ADOPTING THE JULY 10, 2015
REPORT AND RECOMMENDATION**

I. BACKGROUND/STANDARD OF REVIEW

This matter is before the Court on two Reports and Recommendations (Doc. Nos. 112 and 115) filed by Magistrate Judge Michael J. Hluchaniuk. On August 18, 2015, Plaintiff James Dulak filed Objections to the Report and Recommendations filed July 2, 2015 and July 10, 2015. (Doc. Nos. 120, 124)

The standard of review by the district court when examining a Report and Recommendation is set forth in 28 U.S.C. § 636. This Court “shall make a *de novo* determination of those portions of the report or the specified proposed findings or recommendations to which an objection is made.” 28 U.S.C. § 636(B)(1)(c). The

Court “may accept, reject or modify, in whole or in part, the findings or recommendations made by the Magistrate.” *Id.* In order to preserve the right to appeal the Magistrate Judge’s recommendation, a party must file objections to the Report and Recommendation within fourteen (14) days of service of the Report and Recommendation. Fed. R. Civ. P 72(b)(2). Failure to file specific objections constitutes a waiver of any further right of appeal. *Thomas v. Arn*, 474 U.S. 140 (1985); *Howard v. Secretary of Health and Human Servs.*, 932 F2d 505 (6th Cir. 1991); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

II. JULY 2, 2015 REPORT AND RECOMMENDATION (No. 112)

The Court concludes that the Magistrate Judge’s July 2, 2015 Report and Recommendation is correct. The Court agrees with the Magistrate Judge that Plaintiff is not entitled to summary judgment in his favor as to his Eighth Amendment claims against Drs. Jeffrey Stieve, Badawi Abdellatif or Craig Hutchinson.

The Court further agrees with the Magistrate Judge that as to Dr. Stieve’s cross-motion for summary judgment, there are no genuine issues of material fact remaining and Dr. Stieve is entitled to judgment in his favor. The Court agrees with the Magistrate Judge that based on the evidence submitted, Dr. Stieve did not violate Plaintiff’s Eighth Amendment rights in treating Plaintiff’s medical needs. Dr. Stieve’s cross-motion for summary judgment is granted and he is dismissed from this

action with prejudice.

III. JULY 10, 2015 REPORT AND RECOMMENDATION (Doc. No. 115)

After reviewing the Magistrate Judge's July 10, 2015 Report and Recommendation, the Court finds that. No objections were filed by any party to this Report and Recommendation. The Court agrees with the Magistrate Judge that the Plaintiff's Eighth Amendment claim against Drs. Abdellatif and Hutchinson as to their treatment of Plaintiff's Hepatitis C medical condition must be dismissed. Defendants Drs. Abdellatif and Hutchinson properly supported their summary judgment motion establishing that they treated Plaintiff for his symptoms in accordance with the applicable standards. Defendants Drs. Abdellatif and Hutchinson did not violate Plaintiff's Eighth Amendment right as to their treatment of Plaintiff's Hepatitis C medical condition. Defendant Dr. Hutchinson is dismissed from this action since there are no remaining claims against him. There remains an Eighth Amendment shoe accommodation claim against Dr. Abdellatif.

IV. CONCLUSION

For the reasons set forth above,

IT IS ORDERED that Magistrate Judge Michael J. Hluchaniuk's Report and Recommendation (No. 112) is ACCEPTED AND ADOPTED as this Court's findings of fact and conclusions of law. Plaintiff's Objections are Overruled.

IT IS FURTHER ORDERED that Magistrate Judge Michael J. Hluchaniuk's Report and Recommendation (**No. 115**) is ACCEPTED AND ADOPTED as this Court's findings of fact and conclusions of law. Plaintiff's Objections are Overruled.

IT IS FURTHER ORDERED that Plaintiff's Motion for Summary Judgment (**No. 70**) is DENIED.

IT IS FURTHER ORDERED that Defendant Dr. Jeffrey Stieve's Motion for Summary Judgment (**No. 72**) is GRANTED. Dr. Jeffrey Stieve is DISMISSED from this action with prejudice.

IT IS FURTHER ORDERED that Defendants' Motion for Summary Judgment (**No. 80**) is GRANTED. Dr. Craig Hutchinson is DISMISSED from this action with prejudice. Dr. Badawi Abdellatif remains as a defendant as to Plaintiff's Eighth Amendment shoe accommodation claim.

S/Denise Page Hood
Denise Page Hood
United States District Judge

Dated: September 28, 2015

I hereby certify that a copy of the foregoing document was served upon counsel of record on September 28, 2015, by electronic and/or ordinary mail.

S/LaShawn R. Saulsberry
Case Manager